IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE P.R.RAMAN

THURSDAY, THE 11TH JANUARY 2007 / 21ST PAUSHA 1928

WP(C).No. 25435 OF 2006(C)

PETITIONER:

LEELA KUNJUKUNJU, BALIAPADATH HOUSE,
THAIKKATTUKARA P.O., ALUVA.

BY ADV. SRI.P.DEEPAK

RESPONDENTS:

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1. REGIONAL TRANSPORT AUTHORITY,
KOTTAYAM.

2. THE SECRETARY, REGIONAL TRANSPORT
AUTHORITY, KOTTAYAM.

3. THE STATE TRANSPORT APPELLATE TRIBUNAL,
ERNAKULAM.

ADDITIONAL RESPONDENT NO: 4:-

KERALA STATE ROAD TRANSPSORT CORPORATION, REPRESENTED BY ITS MANAGING DIRECTOR, TRANSPSOROT BHAVAN, THIRUVANANTHAPURAM.

BY ADV. SHRI.JOHNSON P.JOHN, SC, KSRTC

GOVT. PLEADER SMT. D.P. RENU.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 11/01/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C) 25435/2006

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1	TRUE COPY OF PROCEEDINGS OF THE 1ST RESPONDENT DATED 30.5.2006.
EXT.P2	TRUE COPY OF THE MEMORANDUM OF APPEAL IN MVAA NO. 335 OF 2006.
EXT.P3	TRUE COPY OF THE JUDGMENT DATED 1.9.2006 IN MVAA NO. 335 OF 2006.

RESPONDENTS' EXHIBITS:

NIL.

// TRUE COPY //

P.S. TO JUDGE.

KNC/-

P.R. RAMAN, J.

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W.P.(C) NO. 25435 OF 2006

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DATED THIS, THE 11TH DAY OF JANUARY, 2007

J U D G M E N T

Petitioner applied for a permit to operate the service as a Fast Passenger in the route Upputhara - Pala via. Elappara, Vagamon, Erattupetta, Bharananganam. The primary authority, by Ext.P1 rejected the same finding that the route objectionably overlaps the notified scheme Kottayam- Poonjar for a distance of 12 Kms. from Pala to Erattupetta. It is also stated that the total route length is only 72 kms. Hence it is against the interest of short distance passengers and students. Challenging the said order, petitioner preferred an appeal Ext.P2, in which Ext.P3 order was passed by the appellate authority. The appellate authority found that Kottayam - Poonjar is a partial exclusion scheme and Erattupetta sector does not constitute a notified route under the scheme. Hence overlapping on that sector will not offend the scheme. So however, the appellate authority found that the distance being only 72 kms.. it will affect the short distance passengers and hence permit cannot be granted as an Express Service. Challenging the above said orders, petitioner has preferred this writ petition.

2. It is the contention of the petitioner that as per Clause (ea) of Rule 2 of the Kerala Motor Vehicles Rules, Fast Passenger Service is defined as a service with limited stops on a route, having a distance of not less than 70 kms. and not more than 160 kms. and therefore it is permissible to operate the service as Fast Passenger, if the distance is over 70 kms. This aspect has not been adverted to by the appellate authority while disposing of the appeal. In the circumstances, the order of the appellate authority is set aside and the matter is remanded to the STAT for a fresh consideration. Since the appeal was partly allowed permitting the petitioner to operate as ordinary service the matter will be considered by the appellate authority overlooking the same.

The writ petition is disposed of as above.

P.R. RAMAN,
JUDGE.

knc/-